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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11	CHRISTOPHER BERLIN ROBERTS,)	Civil No. 01cv0057-L(POR)
12	Petitioner,)	
13	v.)	ORDER (1) ADOPTING REPORT
14)	AND RECOMMENDATION, AND (2)
15	STEVEN CAMBRA, Jr., Interim Director,)	GRANTING IN PART AND
16	Respondent.)	DENYING IN PART PETITIONER'S
17	_____)	MOTION FOR LEAVE TO AMEND

18 Petitioner, Christopher Berlin Roberts, a state prisoner proceeding *pro se*, filed a petition
19 for writ of habeas corpus under 28 U.S.C. § 2254. By order filed April 11, 2007, the court
20 construed Petitioner's Declaration of Abandonment of Unexhausted Claims as a motion for
21 leave to amend his petition by adding exhausted claims. The case was referred to United States
22 Magistrate Judge Louisa S. Porter for a report and recommendation pursuant to 28 U.S.C.
23 § 636(b)(1)(B) and Civil Local Rule 72.1(d).

24 On February 15, 2008, the Magistrate Judge issued a Report and Recommendation,
25 recommending to deny Petitioner's motion for leave to amend with respect to all claims except
26 for claim no. 6, which alleged that Petitioner's sentence to life in prison without possibility of
27 parole constituted a cruel and unusual punishment under the circumstances of his case.

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1 On February 25, 2008, Petitioner filed a request for an extension of time to file objections
 2 to the report and recommendation. By order dated March 3, 2008, the court granted Petitioner's
 3 request, and set April 17, 2008 as the last date for Petitioner to file objections. No objections
 4 have been timely filed.

5 A district judge "may accept, reject, or modify the recommended disposition" on a
 6 dispositive matter prepared by a magistrate judge proceeding without the consent of the parties
 7 for all purposes. Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). "The court shall make a *de*
 8 *nov*o determination of those portions of the [report and recommendation] to which objection is
 9 made." 28 U.S.C. § 636(b)(1). When no objections are filed, the *de novo* review is waived.
 10 Section 636(b)(1) does not require review by the district court under a lesser standard. *Thomas*
 11 *v. Arn*, 474 U.S. 140, 149-50 (1985). The "statute makes it clear that the district judge must
 12 review the magistrate judge's findings and recommendations *de novo if objection is made, but*
 13 *not otherwise.*" *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*)
 14 (emphasis in the original); *see Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D.
 15 Ariz. 2003) (applying *Reyna-Tapia* to habeas review).

16 In the absence of objections, the court **ADOPTS** the Report and Recommendation. For
 17 the reasons stated in the Report and Recommendation, Petitioner's motion for leave to amend is
 18 **GRANTED** with respect to claim no. 6 and **DENIED WITH PREJUDICE** in all other
 19 respects.

20 **IT IS SO ORDERED.**

21
 22 DATED: June 11, 2008

23 
 24 M. James Lorenz
 United States District Court Judge

25 COPY TO:

26 HON. LOUISA S. PORTER
 27 UNITED STATES MAGISTRATE JUDGE

28 ALL PARTIES/COUNSEL